

### P&T OFFICE ACKNOWLEDGEMENT

ATTORNEY		DATE
David Rubin		1/10/05
CASE NUMBER/ SD1290	SERIAL NUMBER 09/387,135	
DATE FILED August 31, 1999		
APPLICANT Cosford, et al.		
EXPRESS MAIL NO.		

The Patent & Trademark Office acknowledges, and has stamped hereon, the date of the receipt of the items checked below:

- ☒ AMENDMENT
- ☐ APPEAL AND FEE
- ☐ ASSIGNMENT
- ☐ BRIEF
- ☐ CERTIFICATE OF CORRECTION
- ☐ FINAL FEE
- ☐ LETTER
- ☐ REQUEST FOR F.F. LICENSE
- ☐ INFORMATION DISCLOSURE STATEMENT
- ☐ PTO 1449 & REFERENCES
- ☐ PETITION FOR EXTENSION OF TIME & FEE
- ☐ INVITATION TO CORRECT
- ☐ DEMAND-CHAPTER II & FEE SHEET

**X 1 reference attach.**

F4424

**BEST AVAILABLE COPY**



1616 EPW

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Nicholas COSFORD, et al	
Serial No.:	09/387,135	- Case No.: SD1290
Filed:	August 31, 1999	
For:	METHODS OF MODULATING PROCESSES MEDIATED BY EXCITORY AMINO ACID RECEPTORS	

Art Unit:  
1616

Examiner:  
F. Choi

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date appearing below.

AMENDMENT

MERCK & CO., INC.

By Dorothy Reynolds Date 1/10/05

Sir:

Applicants traverse the rejection of claims 12-14 contained in the October 21, 2004 Office Action.

Initially, Applicants note that claims 12-14 were previously allowed. Applicants remind the Examiner that a rejection of a claim after it has been allowed is unusual and is to be avoided. Moreover, the present application has been pending since 1999. Applicants are unaware of any justification as to why the cited references could not have been addressed in earlier office actions, and no justification for these "eleventh hour" references has been provided. The fact that these references were not cited earlier is now prejudicing Applicants' rights by delaying allowance and shortening patent term. It is requested that the Examiner acknowledge this prejudice and provide an explanation, in writing, explaining why Applicants have received what amounts to piecemeal examination. The following provisions of the MPEP are relevant in this regard: